

DOM12 – Practices for Evidence Viewing by Non-Laboratory Personnel

Table of Contents

1. Background
2. Definitions
3. Scope
4. Safety Precautions
5. Standards and Controls
6. Limitations
7. Procedures
8. Documentation
9. References

1. Background

- 1.1. The FSL performs analysis on items of evidence that are commonly used in criminal cases. Due to the nature of forensic evidence, it is the policy of the FSL to leave at least fifty percent of the evidence for additional testing. At times, in order to obtain the best result for an item of evidence, all of the evidence must be consumed. In cases where all of a specific item would need to be tested, the FSL obtains permission to consume such evidence. This permission may be provided by the prosecuting attorney in consultation with the defense attorney involved in the case or the submitting detective when no such attorney has been assigned. In instances where there is an objection to the consumption of the samples, the FSL may allow a defense expert to observe the testing of the entire sample at the FSL.

2. Definitions

- 2.1. For purposes of this document, the following terms shall have the designated meanings:

DFS: Department of Forensic Sciences

DOM: Departmental Operations Manual

FSL: Forensic Science Laboratory

3. Scope

- 3.1. This policy is to direct employees of the Department of Forensic Sciences (DFS) Forensic Science Laboratory (FSL) in the process of viewing of evidence testing

by external individual(s) when requested and/or directed by the courts, prosecution, defense attorneys, or other members involved in a criminal case. The FSL does not accept requests for testing in civil litigations.

4. Safety Precautions

- 4.1. Any visitors, including non-FSL personnel, must adhere to the safety policies and procedures in place at the laboratory. Visitors will don appropriate personal protective equipment (PPE) while in laboratory spaces.

4.1.1. **NOTE:** Failure of any visitor to adhere to the DFS and FSL safety procedures will result in removal of the visitor from the laboratory and ban of the individual(s) from any future visits to the laboratory.

- 4.2. The **Deputy Director of Quality** and the **Laboratory Manager** will be notified of any situation that leads to the dismissal of a visitor. Documentation of the event will be maintained by the **Deputy Director of Quality** and by the **DFS General Counsel**. The **DFS Health and Safety Coordinator** will be notified of the safety violation(s).

- 4.3. Materials Required

4.3.1. Personal Protective Equipment (at a minimum, lab coat, goggles, mask and gloves)

4.3.2. Dual-view comparison microscope if needed for firearms or materials-analysis cases.

4.3.3. Swabs for buccal sample collection

5. Standards and Controls

- 5.1. The defense or private specialist must meet the following criteria in order to perform an examination on previously examined evidence:

5.1.1. Presents documentation of training (e.g., curriculum vitae) in the discipline in which the examination is being conducted.

5.1.2. Possesses no known documented improprieties in the forensic discipline.

5.1.3. Presents a notarized Waiver of Liability

- 5.2. Approval of the Laboratory Manager or designee is needed prior to visitation.

6. Limitations

- 6.1. Due to the limited space available in some laboratory spaces, only one viewing of evidence or testing may occur at a time. It is recommended that personnel not involved in the viewing conduct work in areas of the laboratory where the visitor is not present.
- 6.2. No testing of evidence will be conducted by the visitor of the laboratory as per the *Department of Forensic Sciences Establishment Act of 2011*, section 10, as follows:

Sec. 10. Reexamination by independent expert:

The facilities, equipment, or supplies of the Department shall not be used by an independent expert employed by the accused or his or her attorney for any reexamination of materials previously examined by the Department.

- 6.3. No photographs will be taken of the evidence during the viewing, examination, or testing by the visitor. All cell phones, electronic digital/tape recorders, tablet computers, laptops, etc. will be retained in a security envelope and locked in the laboratory manager's office for the duration of the visit to the laboratory.
- 6.4. If the visitor is a defense appointed expert, the expert shall provide an original of their current Curriculum Vitae and a notarized Waiver of Liability to the laboratory for review by laboratory management prior to the date of their visit. Laboratory management reserves the right to refuse laboratory access to the appointed expert at any time, regardless of prior approval of such visit.

7. Procedures

- 7.1. Due to the sensitivity of the forensic testing performed at the FSL, all visitors will be required to submit at least a DNA sample (buccal swab) to the laboratory for use as an exclusionary sample in case of any contamination that may have occurred during the visit. At no time will this sample or any other sample obtained from the visitor be subjected to genetic testing that will lead to the identification of genetic diseases, etc. or entered into CODIS.
 - 7.1.1. **NOTE:** Failure to provide a DNA sample and/or any requested exclusionary sample of the visitor will prevent any access to the laboratory space. Until such samples are obtained, the visitor(s) will be refused entry to the laboratory (evidence room, pre- and post-amplification space). If a visitor(s) would like to bring his/her DNA profile instead of providing a buccal swab, prior permission from the Laboratory Manager must be given.

7.2. Upon notification or request for the viewing of evidence by any visitor to an employee of the FSL, the employee will provide a Request to Observe Evidence Testing form to the requestor. The form must be filled out completely and returned to the laboratory within 5 business days. The request shall be reviewed by the Laboratory Manager or designee. Approval or denial of the request shall be relayed to the requestor in writing. An electronic mail notification is acceptable. All communication will be maintained in the corresponding case file(s).

7.2.1. **NOTE:** If the request is mandated by Court Order, notify management immediately.

7.3. If a request for viewing evidence is approved, the Laboratory Manager will communicate this decision to the assigned case analyst(s). The assigned case analyst will contact the requestor to set up a date of viewing that is mutually agreeable to the analyst and visitor. A copy of the Informed Consent and Obligation to Abide by Laboratory Policies form will be forwarded to the visitor. The visitor must complete and return this form prior to visiting the laboratory or on the day of the visit. The assigned analyst will inform the lab personnel of the visitor's date of viewing.

7.4. On the date of the visit, the assigned analyst assumes responsibility of the visitor will provide the notarized waiver of liability and a copy of the court order, if applicable, to the FSL employee, Laboratory Manager, or designee.

7.5. All security and safety procedures will be followed and enforced in any area of the laboratory including the evidence room. It is ideal to have the viewing occur through the windows of the laboratory hallway as much as possible. If entry into the laboratory space is necessary, the examination and work will be done in a closed-off screening area of the laboratory. If the visitor is to observe testing, then the appropriate areas of the lab will be used.

7.6. Visitors to the laboratory will be escorted by an FSL employee at all times.

7.7. Upon entry into the FSL, visitors will register with the PSPD officers in the lobby, and when entering the laboratory side of the FSL, again sign into the Non-DFS Personnel Entry Log with their name, agency/company, contact person in the FSL, and time of entry.

7.7.1. For visitors entering the DNA evidence room, pre- and/or post-amplification DNA laboratories, an FSL employee will obtain an oral swab

from the visitor, seal and label it appropriately and document its storage location on the Visitor Sample Entry Log.

8. Documentation

8.1. The following worksheet(s) shall be generated and managed:

8.1.1. Non-DFS Personnel Entry Log

8.1.2. Request to View Evidence or Evidence Testing form

8.1.3. Informed Consent and Agreement to Abide by Laboratory Policy form

9. References

9.1. *Department of Forensic Sciences Establishment Act of 2011*. Codification District of Columbia Official Code, 2001 Edition

9.2. *ISO/IEC 17025 – General Requirements for the Competence of Testing and Calibration Laboratories*, International Organization for Standardization, Geneva, Switzerland (current revision)

9.3. *ASCLD/LAB-International® Supplemental Requirements for the Accreditation of Forensic Science Testing and Calibration Laboratories*, American Society of Crime Laboratory Directors/Laboratory Accreditation Board, Garner, NC (current revision)

9.4. *Forensic Quality Services Supplemental Requirements for Forensic Testing*, FQS ANSI-ASQ Accreditation Board, Tampa, FL (current revision)

9.5. *Quality Assurance Standards for Forensic DNA Testing Laboratories*, Federal Bureau of Investigation, (current revision).

9.6. *Forensic Science Laboratory Quality Assurance Manual* (current revision)

9.7. *Unit-specific Quality Assurance Manual* (current revision)